

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MINTEL INTERNATIONAL GROUP,)	
LTD., a United Kingdom corporation,)	
)	
)	
Plaintiff/Counter-Defendant,)	Case No. 08-cv-3939
)	Judge Robert Dow, Jr.
v.)	Magistrate Judge Maria Valdez
MEESHAM NEERGHEEN, an individual)	
)	
Defendant/Counter-Plaintiff.)	
_____)	

**NEERGHEEN’S MOTION TO COMPEL
PARTY WITNESSES FOR IN-PERSON DEPOSITIONS**

Defendant/ Counter-Plaintiff Meesham Neergheen (“Neergheen”) hereby respectfully submits his motion to compel witnesses of Plaintiff/ Counter-Defendant Mintel International Group, Inc. (“Mintel”). Mintel chose to file suit in the Northern District of Illinois and, accordingly, must produce its party witnesses in the forum. In support of his motion, Neergheen states as follows:

BACKGROUND

1. On July 11, 2008, Mintel filed suit against individual Neergheen. Mintel chose to bring its cause of action in the U.S. District Court for the Northern District of Illinois. Mintel now claims that it does not have to produce its noticed party witnesses in this district for deposition. The law in Illinois, however, is to the contrary.

2. For several weeks, counsel for Neergheen and Mintel talked about the availability of Mintel’s witnesses for deposition. In early July counsel for the parties discussed via telephone the necessity of having Mintel’s witnesses appear in person. Yet on August 11, 2008, Mintel

informed counsel for Neergheen that three of the requested witnesses — Steve Charlton, John Weeks and Sabine Popp — would only appear via telephone. (Exhibit A). Upon information and belief, each of these individuals is an employee and officer and/or managing agent of Mintel. When Neergheen asked again that the parties appear in person, counsel for Mintel responded by stating that the three witnesses were “not parties to the present case.” (Exhibit B, *emphasis in original*). That same day, counsel for Neergheen asked that Mintel re-evaluate its position in light of the Federal Rules and established case law requiring a Plaintiff party to appear for deposition in the jurisdiction in which it filed suit, but Mintel did not respond.¹ (Exhibit C). Accordingly, the witnesses were noticed for the dates on which Mintel has indicated they are available. (Exhibit D).

3. “The general rule is that plaintiff, even if a non-resident, must appear at depositions in the forum of its choosing.” *MCI Worldcom Network Servs. v. Atlas Excavating, Inc.*, 2004 U.S. Dist. LEXIS 2736 at *4 (N.D. Ill. February 23, 2004), *citing*, *Orrison v. Balcov Co.*, 132 F.R.D. 202, 203 (N.D. Ill. 1990). “That is, because [the Plaintiff] brought suit in the Northern District of Illinois, it must make party witnesses available in Chicago, even if these witnesses live elsewhere.” *Id.* This principle applies to both witnesses testifying pursuant to Rule 30(b)(6), as well as witnesses with knowledge who are employed by the Plaintiff. *See Continental Baking Co. v. M&G Automotive Specialists*, 1993 U.S. Dist. LEXIS 3232 at *3 (N.D. Ill. March 12, 1993). Mintel brought suit in the Northern District of Illinois. It must, therefore, make its witnesses available here.

¹ Upon noticing the depositions of Ms. Popp, Mr. Charlton and Mr. Weeks, counsel for Neergheen asked that Mintel inform Neergheen if its position regarding the place of deposition changed. As Mintel did not respond, counsel for Neergheen again contacted Mintel prior to filing the present motion. Counsel for Mintel stated that Mintel would not voluntarily produce its witnesses for deposition in Chicago.

4. While the above rule does contain that caveat that, in rare cases of “extreme hardship,” a Plaintiff witness may not be required to appear for deposition in the forum in which suit was filed, such is not the case here. *See Orrison*, 132 F.R.D. at 203. The three noticed witnesses appear to be all currently employed by Mintel and are officers, directors and/or managing agents of Mintel.² The documents produced by Mintel, as well as Mintel’s answers to interrogatories, demonstrate that these witnesses have exclusive knowledge regarding the allegations made in Mintel’s Complaint. And counsel for Mintel has indicated that each is available on the noticed dates. As Mintel has chosen to bring suit against an Illinois resident, and as Mintel has failed to explain any extreme hardship in its employees appearing for their noticed depositions, it is proper that it be compelled to produce the witnesses here in Chicago.

5. As Mr. Charlton, Mr. Weeks and Ms. Popp are all Plaintiff witnesses, it is necessary that they be compelled to sit for their noticed depositions here in Illinois. Accordingly, Neergheen respectfully requests an order of the Court in this regard.

WHEREFORE, for the foregoing reasons Defendant/ Counter-Plaintiff Meesham Neergheen respectfully requests that the Court enter an order compelling the depositions of Steve Charlton, John Weeks and Sabine Popp in Chicago, as noticed.

Dated: August 18, 2008

/s/ Jeana R. Lervick

John T. Roache
 Jeana R. Lervick
 Joel C. Griswold
 Bell, Boyd & Lloyd LLP
 70 West Madison Street
 Suite 3100
 Chicago, Illinois 60602
 312.372.1121
 312.827.8000 (facsimile)

² Neergheen requested that Mintel inform counsel immediately if any of the witnesses are no longer Mintel employees. Mintel did not respond.

EXHIBIT A

JOHNSON & BELL Ltd.
Attorneys at Law

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33 WEST MONROE STREET
CHICAGO, IL 60603-5404
TELEPHONE: (312) 372-0770
FACSIMILE: (312) 372-9818

1435 E. 85TH AVENUE
MERRILLVILLE, IN 46410
TELEPHONE: (219) 791-1900
FACSIMILE: (219) 791-1901

(312) 984-0211
marconij@jbltd.com

August 11, 2008
Via E-mail & Regular Mail

John Roache
Jeana Lervick
Joel Griswold
Bell, Boyd & Lloyd, LLP
70 W. Madison St., Ste. 3100
Chicago, IL 60602

Re: Mintel International Group, Ltd. v. Neergheen
Case No. 08CV3939
Our File No. 07855-08001

Dear Counsel:

Per your request, here are the dates and times that my clients are available for the scheduling of their depositions:

1. Paul Phillips: August 25, 2008 at 1:00 p.m.;
2. Steve Charlton: Available by telephone on August 26, 2008 at 9:00 a.m.;
3. Richard Carr: August 27, 2008 at 9:00 a.m.;
4. John Weeks: Available by telephone on August 28, 2008 at 9:00 a.m.; and
5. Sabine Popp: Available by telephone on August 29, 2008 at 9:00 a.m.

Very truly yours,


Joseph R. Marconi

EXHIBIT B

JOHNSON & BELL Ltd.
Attorneys at Law

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33 WEST MONROE STREET
CHICAGO, IL 60603-5404
TELEPHONE: (312) 372-0770
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MERRILLVILLE, IN 46410
TELEPHONE: (219) 791-1900
FACSIMILE: (219) 791-1901

(312) 984-0211
marconij@jbltd.com

August 12, 2008
Via E-mail & Regular Mail

John Roache
Jeana Lervick
Joel Griswold
Bell, Boyd & Lloyd, LLP
70 W. Madison St., Ste. 3100
Chicago, IL 60602

Re: Mintel International Group, Ltd. v. Neergheen
Case No. 08CV3939
Our File No. 07855-08001

Dear Counsel:

In response to your correspondence dated August 12, 2008, Mr. Charlton, Mr. Weeks and Ms. Popp will not appear for their depositions in person. Despite your incorrect assertion to the contrary, these individuals are not parties to the present case. Furthermore, Mintel has presented and/or will present three of the requested six employees for in-person depositions, including those who have provided affidavits. This is more than required.

Therefore, we once again defer to the deposition dates and times included within our prior correspondence dated August 11, 2008.

Very truly yours,


Joseph R. Marconi

EXHIBIT C

BELL BOYD
BELL, BOYD & LLOYD LLP

70 West Madison Street, Suite 3100
Chicago, Illinois 60602
312.372.1121 • Fax 312.827.8000

JEANA R. LERVICK
312.807.4339
jlervick@bellboyd.com
Direct Fax: 312.827.1266

VIA E-MAIL

August 12, 2008

Joseph R. Marconi
Katherine J. Pronk
JOHNSON & BELL, LTD.
33 West Monroe Street
Suite 2700
Chicago, IL 60603

Re: Mintel International Group, Ltd. v. Neergheen; Case No. 8-cv-3939

Dear Mr. Marconi:

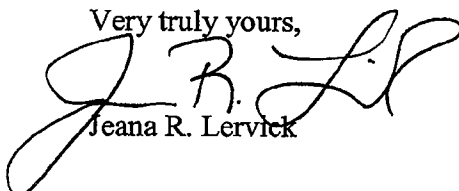
Thank you for your prompt response to us again requesting that the party witnesses appear for their depositions. We ask, however, that you reconsider your position.

In the Federal Court system, a party is entitled to ten depositions without seeking leave of the Court. *See* Fed.R.Civ.P. 31. Mr. Neergheen has, to-date, requested six depositions. Accordingly, it is within our rights under the Federal Rules to request the witnesses to appear.

Regarding the requirement that the parties appear in person, this, too, is an established principle in the Northern District. The "general rule is that a plaintiff, even if a non-resident, must appear at depositions in the forum of its choosing." *MCI Worldcom Network Servs. V. Atlas Excavating, Inc.*, 2005 U.S. Dist. LEXIS 2736 at *4 (N.D. Ill. Feb. 23, 2004). If it is Mintel's position that one and/or more of Mr. Charlton, Mr. Weeks and Ms. Popp is not an employee of Plaintiff Mintel, we ask that you inform us of this fact immediately. If they are, however, employees of the entity that has chosen to file suit in the Northern District of Illinois, they will have to appear in person.

Therefore, again we ask that you please let us know when the party witnesses can appear in person for their depositions. In light of the above, it would be another waste of both parties' energy, time and money — as well as the Court's — to force Mr. Neergheen to seek relief on the issue. We again ask that you let us know when your witnesses will appear for their depositions, as required by the Federal Rules and the Northern District of Illinois.

Very truly yours,



Jeana R. Lervick

chicago • san diego • washington
312.372.1121 • 858.509.7400 • 202.466.6300

EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MINTEL INTERNATIONAL GROUP,
LTD., a United Kingdom corporation,

Plaintiff,

v.
MEESHAM NEERGHEEN, an individual,

Defendant.

Case No.: 08-cv-3939

Hon. Robert M. Dow, Jr.
Magistrate Judge Valdez

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that, pursuant to Federal Rules of Civil Procedure 26 and 30, Defendant Meesham Neergheen ("Neergheen") shall take the deposition upon oral examination of Sabine Popp on Friday August 29, 2008, beginning at 10:00 a.m., at the offices of Bell, Boyd & Lloyd, LLP, 70 W. Madison St., Suite 3100, Chicago, Illinois.

The deposition will continue from day to day until completed and will be taken upon oral examination before a duly authorized or certified shorthand reporter and videographer.

Dated: August 14, 2008

By: 

John T. Roache

Jeana R. Lervick

Joel C. Griswold

Bell, Boyd & Lloyd LLP

Three First National Plaza

70 West Madison Street

Suite 3100

Chicago, Illinois 60602

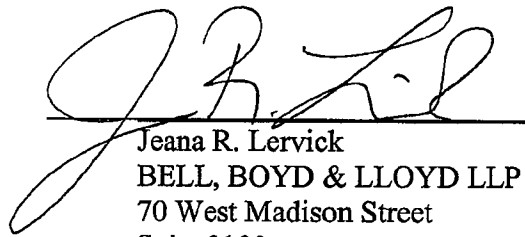
312.807.4339

312.827.1266 (facsimile)

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a true and correct copy of **Notice of Deposition** has been served this 14th day of July, 2008 via facsimile and e-mail to:

Joseph Marconi
Victor Pioli
Katherine J. Pronk
JOHNSON & BELL, LTD.
33 West Monroe Street
Suite 2700
Chicago, Illinois 60603



Jeana R. Lervick
BELL, BOYD & LLOYD LLP
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Suite 3100
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(312) 373-1121

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ILLINOIS
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MINTEL INTERNATIONAL GROUP,
LTD., a United Kingdom corporation,

Plaintiff,

v.
MEESHAM NEERGHEEN, an individual,

Defendant.

Case No.: 08-cv-3939

Hon. Robert M. Dow, Jr.
Magistrate Judge Valdez

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that, pursuant to Federal Rules of Civil Procedure 26 and 30, Defendant Meesham Neergheen ("Neergheen") shall take the deposition upon oral examination of John Weeks on Thursday August 28, 2008, beginning at 10:00 a.m., at the offices of Bell, Boyd & Lloyd, LLP, 70 W. Madison St., Suite 3100, Chicago, Illinois.

The deposition will continue from day to day until completed and will be taken upon oral examination before a duly authorized or certified shorthand reporter and videographer.

Dated: August 14, 2008

By: 

John T. Roache

Jeana R. Lervick

Joel C. Griswold

Bell, Boyd & Lloyd LLP

Three First National Plaza

70 West Madison Street

Suite 3100

Chicago, Illinois 60602

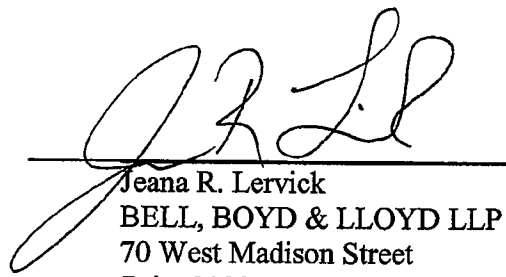
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MINTEL INTERNATIONAL GROUP,
LTD., a United Kingdom corporation,

Plaintiff,

v.
MEESHAM NEERGHEEN, an individual,

Defendant.

Case No.: 08-cv-3939

Hon. Robert M. Dow, Jr.
Magistrate Judge Valdez

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that, pursuant to Federal Rules of Civil Procedure 26 and 30, Defendant Meesham Neergheen ("Neergheen") shall take the deposition upon oral examination of Steve Charlton on Tuesday August 26, 2008, beginning at 10:00 a.m., at the offices of Bell, Boyd & Lloyd, LLP, 70 W. Madison St., Suite 3100, Chicago, Illinois.

The deposition will continue from day to day until completed and will be taken upon oral examination before a duly authorized or certified shorthand reporter and videographer.

Dated: August 14, 2008

By: 

John T. Roache

Jeana R. Lervick

Joel C. Griswold

Bell, Boyd & Lloyd LLP

Three First National Plaza

70 West Madison Street

Suite 3100

Chicago, Illinois 60602

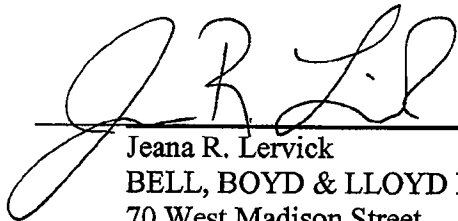
312.807.4339

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a true and correct copy of **Notice of Deposition** has been served this 14th day of July, 2008 via facsimile and e-mail to:

Joseph Marconi
Victor Pioli
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**IN THE UNITED STATES DISTRICT COURT FOR
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MINTEL INTERNATIONAL GROUP,)	
LTD., a United Kingdom corporation,)	
)	
)	
Plaintiff/Counter-Defendant,)	Case No. 08-cv-3939
)	Judge Robert Dow, Jr.
v.)	Magistrate Judge Maria Valdez
MEESHAM NEERGHEEN, an individual)	
)	
Defendant/Counter-Plaintiff.)	
_____)	

[PROPOSED] ORDER

This cause having been heard before the Court during the hearing taking place Thursday August 21, 2008 on Defendant/ Counter-Plaintiff Meesham Neergheen's Motion to Compel Party Witnesses for In-Person Depositions, it is hereby ordered that:

1. Mr. Steve Charlton shall appear in-person for his deposition pursuant to Notice on Tuesday August 26, 2008, beginning at 10:00 a.m. at 70 West Madison Street, Suite 3100, Chicago, Illinois 60602;
2. Mr. John Weeks shall appear in-person for his deposition pursuant to Notice on Thursday August 28, 2008, beginning at 10:00 a.m. at 70 West Madison Street, Suite 3100, Chicago, Illinois 60602; and
3. Ms. Sabine Popp shall appear in-person for her deposition pursuant to Notice on Friday August 29, 2008, beginning at 10:00 a.m at 70 West Madison Street, Suite 3100, Chicago, Illinois 60602.

The above depositions shall take place pursuant to the Federal Rules of Civil Procedure and as noticed.

Dated: August ____, 2008

Hon. Maria Valdez

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a true and correct copy of **Neergheen's Motion to Compel Party Witnesses for In-Person Depositions** have been served this 18th day of August , 2008 via ECF filing to:

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Katherine J. Pronk
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/s/ Jeana R. Lervick

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